

# EXHIBIT A

EXHIBIT A



# EXHIBIT B

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OFFICE OF THE ATTORNEY GENERAL  
CARSON CITY, NEVADA

MAR 31 2010

CASE NO. 10 TRT 00023 1B BUREAU OF PUBLIC AFFAIRS  
PUBLIC SAFETY DIVISION

DEPT. NO. II

REC'D &amp; FILED

2010 MAR 22 PM 3:13

ALAN GLOVER  
CLERK  
DEPUTYFIRST JUDICIAL DISTRICT COURT FOR THE STATE OF NEVADA  
IN AND FOR CARSON CITY

ROBERT GERHARDSON,

COMPLAINT (EXEMPT FROM  
ARBITRATION: EQUITABLE RELIEF  
REQUESTED)

Plaintiff,

vs.

JEREMY BRANUM, an individual, MARK  
WOMER, an individual, STATE OF  
NEVADA, ex. rel., ITS DEPARTMENT  
OF CORRECTIONS,

Defendants.

Plaintiff, for his complaint against Defendants, and each of them, jointly and severally,  
complains and avers as follows:

1. Plaintiff was employed by the State of Nevada, ex. rel., Its Department of Corrections.
2. The individual parties are employed by the Nevada Department of Corrections, or at least were on November 25, 2009.
3. The individual Defendants are sued in their individual capacities but were acting under color of state law and within the scope of their employment at the time.
4. On November 25, 2009, Plaintiff accidentally set off the radio alarm on his official radio from the parameter patrol at the institution at which he was working for the Department of Corrections.
5. Plaintiff was ordered to return to the gatehouse and proceeded to do so.
6. Upon arriving, Plaintiff was confronted by Defendants Womer and Branum, at

1 gunpoint. Branum held the gun, pointed at Plaintiff. Womer ordered Branum to utilize the gun  
2 in this manner.

3 7. Plaintiff was visibly alone, well removed from the van in which he had been  
4 riding and was fully compliant. Neither Branum nor Womer had any reason or cause to  
5 believe that Plaintiff was a danger to them or others and there were no other persons present  
6 who might have filled that description either.

7 8. Plaintiff reasonably feared for his safety and perceived immediate harm of  
8 serious and deadly force at the time.

9 9. Plaintiff complied with commands to disarm himself under gunpoint.

10 10. During the incident, Plaintiff indicated that the weapon pointing was  
11 unnecessary, especially at him, that there was no danger, and that his alarm had been set off  
12 accidentally. Still, he remained at gunpoint. Plaintiff's protesting in this regard was protected  
13 activity under the First Amendment to the United States Constitution.

14 11. At the time, Womer was the Lieutenant on shift and due to the absence of a  
15 Warden or Associate Warden, he was the Acting Warden of the institution at the time.

16 12. The rationale given by Womer for the threat of deadly force was that it was  
17 procedure. This is a fallacious statement because the conduct of Womer and Branum is not  
18 part of any procedure, and in fact jeopardized the safety of Plaintiff and others.

19 13. Following the incident, Plaintiff protested the matter and sought an internal  
20 investigation against Womer and Branum. Plaintiff asked Womer if he should complete an  
21 incident report and Womer said no. this was protected speech by Plaintiff. Womer's order  
22 was prior restraint of Plaintiff's speech.

23 14. Thereafter, Plaintiff received discipline for a matter which he believed was a  
24 pretext for retaliation for his reporting this activity on the part of Branum and Womer.

25 15. As a result of the foregoing, Plaintiff has suffered past and future general  
26 damages, including emotional distress, mental anguish, harm to reputation, as well as special  
27 damages to be determined.

1 16. The conduct of the individual Defendants was malicious, fraudulent and/or  
2 oppressive entitling Plaintiff to an award of punitive damages.

3 FIRST CLAIM FOR RELIEF

4 17. Plaintiff refers to and by such reference incorporates herein each, every and all  
5 averments contained in paragraphs 1-16 hereinabove as though fully set forth at this point.

6 18. The conduct of the individual Defendants, later ratified by Defendant State of  
7 Nevada, was outrageous and intentional and/or reckless, designed serious emotional distress  
8 upon Plaintiff, and in fact did so, as evidenced by objective manifestations and medical and  
9 psychological diagnoses.

10 19. As a proximate result of the outrageous conduct of the Defendants, Plaintiff has  
11 suffered and is entitled to the aforementioned damages.

12 SECOND CLAIM FOR RELIEF

13 20. Plaintiff refers to and by such reference incorporates herein each, every and all  
14 averments contained in paragraphs 1-19 hereinabove as though fully set forth at this point.

15 21. The individual Defendants' conduct, as later ratified by Defendant State of  
16 Nevada, placed Plaintiff in reasonable apprehension of immediate harmful or offensive contact  
17 constituting the tort of assault.

18 22. As a result of the assault, Plaintiff has suffered and is entitled to the  
19 aforementioned damages.

20 THIRD CLAIM FOR RELIEF

21 23. Plaintiff refers to and by such reference incorporates herein each, every and all  
22 averments contained in paragraphs 1-22 hereinabove as though fully set forth at this point.

23 24. Defendants intentionally restricted the movement of Plaintiff and engaged in his  
24 asportation without his consent, justification or privilege.

25 25. As a result of the false imprisonment of Plaintiff, Defendants are liable for the  
26 same damages.

27 ///

FOURTH CLAIM FOR RELIEF

26. Plaintiff refers to and by such reference incorporates herein each, every and all averments contained in paragraphs 1-25 hereinabove as though fully set forth at this point.

27. The conduct of the Defendants either constituted a seizure without probable cause of Plaintiff's person and without reasonable suspicion and/or constituted a seizure such the manner in which it was done that "shocked the conscience", rendering the individual Defendants liable pursuant to 42 U.S.C. §1983 for violation of Plaintiff's Fourth and/or Fourteenth Amendment rights to be free from unreasonable seizures under the Fourth Amendment to the United States Constitution and/or not to be deprived of liberty without due process of law (substantive due process) under the Fourteenth Amendment to the United States Constitution.

FIFTH CLAIM FOR RELIEF

28. Plaintiff refers to and by such reference incorporates herein each, every and all averments contained in paragraphs 1-27 hereinabove as though fully set forth at this point.

29. Defendants State of Nevada and Womer failed to exercise reasonable care with respect to the training and supervision of Branum.

30. But for this negligence, Branum would not have been incompetent in and about the use of the firearm. Branum was incompetent in and about the use of the firearm.

31. As a proximate result of the negligence of Nevada and Womer, Plaintiff has suffered and is entitled to the aforementioned damages.

WHEREFORE, Plaintiff prays for judgment in his favor and against Defendants, jointly and severally, for all of the aforementioned relief, together with reasonable attorney's fees and costs of suit, and such other and further relief as the Court deems just and proper.

DATED <sup>March</sup> February 4, 2010

LAW OFFICE OF  
JEFFREY A. DICKERSON

JEFFREY A. DICKERSON

**Nevada Department of Corrections  
Civil Litigation Coordination Form 1**

**"NOTICE TO ATTORNEY GENERAL REGARDING SERVICE OF PROCESS"**

**INSTRUCTIONS:**

Complete the information required by this form and transmit promptly, with a copy of the Summons and Complaint, to the Office of the Attorney General, Litigation Division. The Department's activities related to receiving service of process are governed by the Administrative Regulation 357.

**1. General Information**

CASE NAME AND #: Gerhardson v. Branum 10 TRT ODD231B  
 RECEIVED BY: MARK WOMER'S wife WAS served at his  
 (Name and Title) home on 4/11/10  
 DATE OF SERVICE: 4/11/10 WHERE RECEIVED \_\_\_\_\_  
at his home  
 DOCUMENTS ENCLOSED: \_\_\_\_\_ SUMMONS \_\_\_\_\_ COMPLAINT \_\_\_\_\_ OTHER \_\_\_\_\_

**2. SERVICE ACCEPTED FOR:**

Service of process was accepted for the following named defendants who are currently employed in the public service at the Department of Corrections as defined by NRS 284.015, or are immune contractors currently providing medical services to the Department as defined by NRS 41.0307. Each of these defendants has been provided with a copy of the Summons and Complaint, a form for requesting representation, and instructions on applicable deadlines.

<u>NAME</u>	<u>TITLE</u>	<u>DUTY STATION</u>
<u>MARK WOMER</u>		

**3. SERVICE NOT ACCEPTED FOR:**

Service was attempted but not accepted for the following defendants who are no longer employees, have never been employees, or are not identifiable.

<u>NAME</u>	<u>FORMER TITLE</u>	<u>FORMER DUTY STATION</u>



# EXHIBIT C

# EXHIBIT C

No. LD TRT 00023 1B  
Dept. II

OFFICE OF THE ATTORNEY GENERAL  
CARSON CITY, NEVADA

MAR 31 2010

BUREAU OF PUBLIC AFFAIRS  
PUBLIC SAFETY DIVISION

In the First Judicial District Court of the State of Nevada  
in and for Carson City

ROBERT GERHARDSON,

Plaintiff,

SECOND ADDITIONAL SUMMONS

vs.

JEREMY BRANUM, an individual, MARK  
WOMER, an individual, THE STATE OF  
NEVADA, ex rel., ITS DEPARTMENT OF  
CORRECTIONS Defendant.

THE STATE OF NEVADA SENDS GREETINGS TO THE ABOVE-NAMED DEFENDANT:  
STATE OF NEVADA, ex rel. ITS DEPARTMENT OF CORRECTIONS

**NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU WITHOUT YOUR BEING  
HEARD UNLESS YOU RESPOND WITHIN 20 DAYS. READ THE INFORMATION BELOW.**

TO THE DEFENDANT: A civil Complaint has been filed by the plaintiff against you.

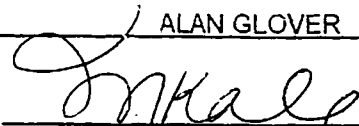
1. If you wish to defend this lawsuit, you must, within 20 days after this Summons is served on you, exclusive of the day of service, file with this Court a written pleading in response to this Complaint.
2. Unless you respond, your default will be entered upon application of the plaintiff, and this Court may enter a judgment against you for the relief demanded in the Complaint, which could result in the taking of money or property or the relief requested in the Complaint.
3. If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your response may be filed on time.
4. You are required to serve your response upon plaintiff's attorney, whose address is

JEFFREY A. DICKERSON  
9655 GATEWAY DR., SUITE B  
RENO, NV 89521  
(775) 786-6664

ALAN GLOVER

Clerk of Court

By



Deputy Clerk

Date March 22, 20 10

\*Note - When service by publication, insert a brief statement of the object of the action. See Rule 4.

RETURN OF SERVICE ON REVERSE SIDE

**AFFIDAVIT OF SERVICE**  
(For General Use)STATE OF \_\_\_\_\_ }  
COUNTY OF \_\_\_\_\_ } SS.

\_\_\_\_\_, declares under penalty of perjury:

That affiant is, and was on the day when he served the within Summons, over 18 years of age, and not a party to, nor interested in, the within action; that the affiant received the Summons on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and personally served the same upon \_\_\_\_\_ the within named defendant, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by delivering to the said defendant, personally, in \_\_\_\_\_, County of \_\_\_\_\_, State of \_\_\_\_\_, a copy of the Summons attached to a copy of the Complaint.

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Signature of person making serviceSTATE OF NEVADA }  
CARSON CITY } SS.**NEVADA SHERIFF'S RETURN**  
(For Use of Sheriff of Carson City)

I hereby certify and return that I received the within Summons on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_; and personally served the same upon \_\_\_\_\_, the within named defendant, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by delivering to the said defendant, personally, in Carson City, State of Nevada, a copy of the Summons attached to a copy of the Complaint.

\_\_\_\_\_  
Sheriff of Carson City, Nevada

Date: \_\_\_\_\_, 20\_\_\_\_

By \_\_\_\_\_  
DeputySTATE OF NEVADA }  
COUNTY OF \_\_\_\_\_ } SS.**AFFIDAVIT OF MAILING**  
(For Use When Service is by Publication and Mailing)

\_\_\_\_\_, declares under penalty of perjury: That affiant is, and was when the herein described mailing took place, over 18 years of age, and not a party to, nor interested in, the within action; that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, affiant deposited in the Post Office at \_\_\_\_\_, Nevada, a copy of the within Summons attached to a copy of the Complaint, enclosed in a sealed envelope upon which first class postage was fully prepaid, addressed to \_\_\_\_\_, the within named defendant, at \_\_\_\_\_; that there is a regular communication by mail between the place of mailing and the place so addressed.

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**NOTE -**

If service is made in any manner permitted by Rule 4 other than personally upon the defendant, or is made outside the United States, a special affidavit or return must be made.

Mark Womer's  
Wife was served this  
At home on 4/11/10

No. LOT RT 00023 1B

Dept. II

In the First Judicial District Court of the State of Nevada  
in and for Carson City

FIRST ADDITIONAL SUMMONS

ROBERT GERHARDSON,

Plaintiff,

vs.  
JEREMY BRANUM, an individual, MARK  
WOMER, an individual, THE STATE OF  
NEVADA, ex rel., ITS DEPARTMENT OF  
CORRECTIONS Defendant.

MARK WOMER THE STATE OF NEVADA SENDS GREETINGS TO THE ABOVE-NAMED DEFENDANT:

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TO THE DEFENDANT: A civil Complaint has been filed by the plaintiff against you.

1. If you wish to defend this lawsuit, you must, within 20 days after this Summons is served on you, exclusive of the day of service, file with this Court a written pleading in response to this Complaint.
2. Unless you respond, your default will be entered upon application of the plaintiff, and this Court may enter a judgment against you for the relief demanded in the Complaint\*, which could result in the taking of money or property or the relief requested in the Complaint.
3. If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your response may be filed on time.
4. You are required to serve your response upon plaintiff's attorney, whose address is

JEFFREY A. DICKERSON  
9655 GATEWAY DR., SUITE B  
RENO, NV 89521  
(775) 786-6664

ALAN GLOVER

Clerk of Court

By A. KALE

Deputy Clerk

Date March 22, 20 10

\*Note - When service by publication, insert a brief statement of the object of the action. See Rule 4.

RETURN OF SERVICE ON REVERSE SIDE